

**Summary of the Office Action**

Claims 1-3 stand rejected under 35 U.S.C. § 112, first paragraph.

Claims 25 and 28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Iitsuka, U.S. Patent No. 6,462,151 (hereinafter "Iitsuka").<sup>1</sup>

Claims 5, 12, 19, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iitsuka.

**Summary of the Response to the Office Action**

Applicants have canceled claims 1-30 without prejudice or disclaimer. Applicants have also added new claims 31-52 to differently describe embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. Accordingly, claims 31-52 are currently pending for consideration.

**Rejection under 35 U.S.C. § 112, first paragraph**

Claims 1-3 stand rejected under 35 U.S.C. § 112, first paragraph. Applicants have canceled claims 1-3 without prejudice or disclaimer, rendering these rejections moot.

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. § 112, first paragraph be withdrawn.

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<sup>1</sup> Applicants understand that the Examiner's references to "U.S. Patent No. 6,462,151" and "Iitsuka" are a typographical errors throughout the Office Action that were intended to read --U.S. Patent No. 6,463,151-- and "Iitsuka" respectively. It appears that the Examiner's indications of this reference are correct on the PTO-892 form attached to the Office Action. To the extent that Applicants' understanding is incorrect, clarification is respectfully requested to be provided in the next Office Communication.

**Rejections under 35 U.S.C. §§ 102(e) and 103(a)**

Claims 25 and 28 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Iitsuka.

Claims 5, 12, 19, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Iitsuka. Applicants have canceled claims 1-30 without prejudice or disclaimer, rendering these rejections moot.

New claims 31-52 are presented in order to differently describe embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. To the extent that these rejections might be deemed to apply to any of the newly-presented claims, they are respectfully traversed for at least the following reasons.

Applicants respectfully submit that Iitsuka discloses the data recording/reproduction means 305 in FIG. 3. The data recording/reproduction means 305 sends and displays AV data decrypted by the decryption means 304 or AV data directly sent from the packet decoding means 301 to and on display means 307. Further, the data recording/reproduction means 305 records the AV data in a built-in recording medium. The AV data from the data recording/reproduction means 305 is outputted from audio output means 308. See col. 10, line 63 to col. 11, line 2 of Iitsuka.

Applicants respectfully submit that in Iitsuka, copy management information is contained in the Sy field 910 in the isochronous packet header 900. 00 is assigned if the copy management information is copy-freely, 10 for copy-one-generation, 11 for copy-prohibited, 01 for the in-transition mode. See col. 9, lines 37-48 of Iitsuka. Further, an encryption key used for encryption is generated from a key group A or B in the encryption means 205 shown in FIG. 2. See col. 8, lines 52-58 of Iitsuka. If the copy management information is copy-one-generation,

the encryption key is determined from the group A. If the copy management information is copy-prohibited, the encryption key is determined from the group B. See col. 9, lines 1-6 of Iitsuka. Applicants note that the encryption key is generated only in the source device 101. Further, the encryption key is outputted only from the source device 101. The sink device 102 having the data recording/reproduction means 305 does not generate and output the encryption key.

The example of an outputting operation and a recording operation by using the above-mentioned means, copy management information and the key group is described in col. 11, line 31- col. 13, line 43 of Iitsuka. If "10" information is contained in the Sy field, the encryption key is generated from the group A corresponding to "10" information. The encryption key corresponding to "10" information is sent from the source device 101, and received by the key acquisition means 302 in the sink device 102. See col. 12, lines 24-26 of Iitsuka.

Then, the AV data is decrypted by using the generated key. See col. 12, lines 26-31 of Iitsuka. The data recording/reproducing device 305 determines that the data "10" contained in the Sy field 910 is copy-one-generation, and outputs it to the display means 307 and the audio output means 308. See col. 12, lines 32-37 of Iitsuka. However, the sink device 102 does not encrypt the AV data when outputting it. This is because the sink device 102 does not have any encryption means. See FIG. 3 of Iitsuka. Further, this is because the outputted data is not distributed through the bus 105, but merely used in the display means 307 and the audio output means 308. Applicants respectfully submit that it is unnecessary to encrypt the outputted data in Iitsuka.

On the other hand, Applicants respectfully submit that the data recording/reproducing device 305 determines that the data "10" contained in the Sy field 910 is copy-one-generation, records the decrypted AV data in the built-in recording medium. See col. 12, lines 32-37 of Iitsuka. When the data recording/reproduction means 305 records the AV data, it performs the recording operation after rewriting the data "10" to "11". See col. 12, lines 38-45 of Iitsuka. However, the sink device 102 does not encrypt the AV data when recording it in the built-in recording medium. This is because the sink device 102 does not have any encryption means. See FIG. 3 of Iitsuka.

Applicants respectfully submit that it is not clearly described that the sink device 102 encrypts the AV data when recording it in the built-in recording medium in Iitsuka. However, the recorded AV data might be distributed through the bus 105 from the other device. Even if it is assumed that the sink device 102 encrypts the AV data when recording it in the built-in recording medium, the AV data is encrypted by using an encryption key from the group B corresponding to "11" data.

As explained above, in Iitsuka, the encryption is not performed in both the reproduction process (outputting process) and the recording process via the sink device 102. Assuming that the encryption is performed, it is done only in the recording process.

On the other hand, in the present invention, Applicants respectfully submit that a type of the predetermined scramble system in a recording step is different from that of a scramble system which a reproduction apparatus applies to information signal recorded in the recording medium by the recording step, the reproduction apparatus being capable of reproducing the recording medium.

In other words, Applicants respectfully submit that a scramble system is applied to an information signal in the recording step in the present invention. Further, another scramble system is applied to an information signal in the reproduction apparatus. In the present invention, the scramble system is applied to an information signal even when it is reproduced from the reproduction apparatus. Moreover, the scramble system applied to an information signal in the recording step is different from that applied to an information signal in the reproduction apparatus.

Therefore, Applicants respectfully submit that it is possible to determine which path (for example, a path from a recorder, a path from a player, or a path from a receiver, and the like) the information signal has passed through in the present invention. Applicants respectfully submit that at least these advantageous features of embodiments of the instant application, as described in the newly-presented independent claims 31, 38, 45 and 49, are not disclosed or even suggested in any of the references of record including Iitsuka.

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. §§ 102(e) and 103(a) should be withdrawn because Iitsuka does not teach or suggest each feature of newly-presented independent claims 31, 38, 45 and 49. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Similarly, MPEP § 2143.03 instructs that "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974)."

Furthermore, Applicants respectfully assert that the dependent claims are allowable at least because of their dependence from newly-presented independent claims 31, 38, 45 and 49, and the reasons set forth above.

### **CONCLUSION**

In view of the foregoing amendments and remarks, withdrawal of the rejections and allowance of all pending claims are earnestly solicited. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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